

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 3:06-cr-054-MEF
)	(WO)
SALLEY WHALEY HOGAN)	

ORDER

On August 23, 2006, the defendant filed an Unopposed Motion to Schedule Trial Date in December (Doc. #20). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that a continuance is necessary for effective preparation of an adequate defense and for a full consideration by the Court of defendant's pending motion to suppress. The government does not oppose the motion to continue. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by

continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on August 23, 2006 is GRANTED;
2. That the trial of this defendant is continued from the September 18, 2006 trial term to the December 4, 2006 trial term.
3. That the Magistrate Judge conduct a pretrial conference prior to the December 4, 2006 trial term.

DONE this 24th day of August, 2006.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE